

Edwards Ref: RMI-5743  
(formerly 261/151)

### REMARKS

Reconsideration of the rejections set forth in the Final Office Action mailed December 14, 2004, is respectfully requested. Claim 1 has been amended. Support for these amendments can be found in the specification at, e.g., page 11, line 20 – page 12, line 11 and Figs. 5A-C. Therefore, these amendments are being made without the addition of new matter. Claims 11-17 remain pending in this case.

### Art Rejections

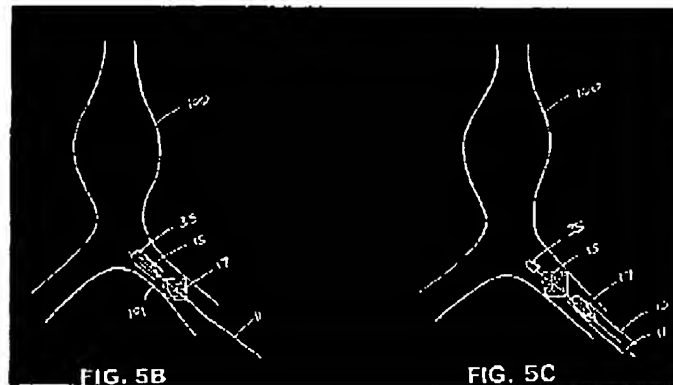
Claims 11-14 are rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Tsugita et al. (U.S. Patent No. 5,910,154). Claims 11, 12, 14, 15, and 17 are rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Don Michael et al. (U.S. Patent No. 6,485,502). Claims 15-17 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Tsugita in view of Don Michael.

Independent claim 11 requires “a mechanism for expanding the first filter independently of the second filter” and “a mechanism for expanding the second filter independently of the first filter.” (emphasis added). Applicants respectfully note that Tsugita does not teach or suggest a device with the above-mentioned mechanisms. In Tsugita, the sponge-like devices are introduced into the blood vessel by pushing the guidewire distally. (See Col. 13, lines 33-35). Such a mechanism for deployment does not allow for the independent deployment of each filter. For instance, the proximal filter could not be deployed independently of the distal filter. The examiner has taken the position that “Applicant discloses in the specification and claims that a suitable mechanism for expanding two filters independently is a sheath that is moved proximally of the filters.” (Office Action mailed 12/14/04, pages 3-4). In contrast to the examiner’s

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statements above, the specification describes *independent* expansion and contraction mechanisms.

Proximal sheath 10 advances to cover filter 17 while distal capture sheath 35 is withdrawn to cover filter 15. ... Distal capture sheath 35 covers and restrains filter 15. The proximal sheath is removed allowing filter 17 to expand and filter blood flowing from the aorta into the iliac arteries. If blood flow during the procedure reverses within left iliac artery 101, sheath 10 is advanced to collapse filter 17, and distal capture sheath 35 is advanced to release filter 15 as shown in Fig. 5C.



(Specification, page 12, lines 2-11 and Figures 5B and C). Therefore, as depicted above, the deployment mechanisms do not consist simply of a "sheath that is moved proximally of the filters" as described by the examiner.

Independent claim 11 has been amended to require "*a first expandable filter fixed at the distal end of the elongate member*" and "*a second expandable member fixed at the distal end of the elongate member.*" (emphasis added) As stated by the examiner with reference to Don Michael, "filter (14) is not fixed to the guide wire." (Office Action, page 4) Therefore, the reference does not teach or suggest all of the limitations of the claims as amended.

Claim 11 is therefore patentably distinct from the cited art. Claims 12-17 are dependent on claim 11 and are therefore patentably distinct from the cited art for the same reasons applicable to claim 11. Therefore, applicants respectfully request withdrawal of the rejections and reconsideration of the claims as amended.

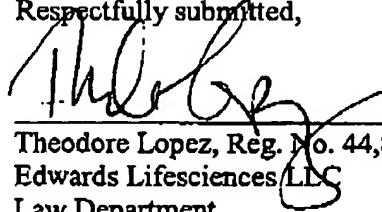
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**CONCLUSION**

For the above reasons, pending Claims 11-17 are in condition for allowance and allowance of the application is hereby solicited. If the Examiner has any questions or concerns, a telephone call to the undersigned at 949-250-6856 is welcomed and encouraged.

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Respectfully submitted,



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